

San Antonio – Rep. Charles A. Gonzalez, Ranking Member of the Subcommittee on Elections, released the following statement in response to Colorado Secretary of State Gessler’s decision to prohibit Pueblo County to mail ballots for Colorado’s upcoming election to military voters deployed overseas.

“Mr. Gessler’s misguided efforts now threaten voter suppression not only in Denver County but among members of our armed services, men and women on active duty in war zones. His misinterpretation of the law is not only illegal but deprives Colorado citizens of their most fundamental right: the right to vote. I have asked the Department of Justice to include this new development in their investigation of Mr. Gessler’s activities.”

In [a letter](#) to Pueblo County Clerk and Recorder Gilbert Ortiz, Gessler announced his decision as “an order from the Secretary of State not to send mail ballots to inactive – failed to vote UOCAVA electors.” The acronym, short for “Uniformed and Overseas Citizens Absentee Voting Act”, refers there to military or overseas voters whose did not vote in the last general election.

In 2009, by strong and bipartisan majorities in [both chambers](#), Congress enacted the [Military and Overseas Voter Empowerment \(MOVE\) Act](#)

to help ensure that Americans were not denied their right to vote simply because they were abroad at election time. Among its provisions to protect deployed servicemembers,

[42 USC 1973ff-6\(1\)\(A\)](#)

, is one requiring states to send them ballots for all federal elections,

[42 USC 1973ff-1\(a\)8](#)

. To comply with this law, the Colorado legislature adopted the "Uniform Military and Overseas Voters Act" which requires local election officials to send ballots to all “covered voters”,

[§1-8.3-110, C.R.S. \(2011\)](#)

, in “Any other election coordinated by the county clerk and recorder.”

[§1-8.3-103, C.R.S. \(2011\)](#)

Neither federal law nor Colorado law makes a distinction between active and inactive voters. The interpretation of the law offered by the Secretary of State and Attorney General, however, would not only not require ballots to be sent out, as the MOVE Act requires, but prohibit them, as appears to be happening in Pueblo County now. This would be a violation of federal law. In [a letter](#)

to Gessler, Ortiz reports that Pueblo County Attorney Dan Kogovsek [argues this is a violation of state law as well](#)

Mr. Gonzalez has referred this matter to the Department of Justice, following up on [his previous letter of concern](#) about possible illegal disenfranchisement of Colorado voters.

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